From: kenneth.a.anderson=dhs.gov@co-sender1.com on behalf of FLETC - Legal Division
To: Judson, Philip (SHF)
Subject: The Informer - August 2018
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The Informer - August 2018

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Case Summaries

Circuit Courts of Appeals

Second Circuit

United States v. Iverson: Whether the defendant's consent to enter his apartment extended to a police canine and whether the act of bringing a drug-sniffing canine into the defendant's apartment constituted a Fourth Amendment search.

Third Circuit

United States v. Green: Whether a state trooper established reasonable suspicion of criminal activity to justify extending the duration of a traffic stop.

Fifth Circuit

Escobar v. Montee: Whether a police officer was entitled to qualified immunity in a lawsuit where the plaintiff claimed the use of a canine to assist in his arrest constituted excessive force.

United States v. Robles-Avalos : Whether a Border Patrol Agent established reasonable suspicion of criminal activity to justify a traffic stop.

United States v. Villafranco-Elizondo : Whether an officer established reasonable suspicion to extend the duration of a traffic stop and whether a drug dog's failure to alert affected other existing factors that established probable cause to search the defendant's trailer.

Eighth Circuit

United States v. Highbull: Whether a woman was acting as a government agent when she searched a vehicle for a cell phone, which she later gave to a police officer.

United States v. Homedew: Whether the defendant voluntarily consented to a search of his backpack and checked bag after officers arrested him at an airport.

FLETC Talks

A brief review of United States Supreme Court cases involving a variety of Constitutional issues relevant to law enforcement officers.

1. Arizona v. Gant (Search Incident to Arrest – Vehicles)

In Gant, the Supreme Court outlined two situations in which the passenger compartment of a vehicle can be searched incident to arrest. Do you remember what they are?

https://www.youtube.com/watch?v=p-Ts09utgKQ

2. Government Employees and Free Speech Rights

The First Amendment permits, in certain circumstances, government employees, to include police officers, to speak as private citizens on matters of public concern. Click on the link below for a discussion on the limitations a government employer can place on its employees right to free speech under the First Amendment.

https://www.youtube.com/watch?v=W6EBfL9_oPY

3. Minnesota v. Dickerson (Plain-Touch Doctrine)

When a police officer detects contraband through his or her sense of touch during a lawful Terry frisk, does the Fourth Amendment permit the officer to seize it?

https://www.youtube.com/watch?v=3s4bDZ83krww

4. O'Connor v. Ortega (Government Workplace Searches)

A discussion of government employee Fourth Amendment rights regarding workplace administrative searches involving supervisors investigating suspected violations of agency policy, in comparison to law enforcement officers investigating criminal offenses.

https://www.youtube.com/watch?v=WeTm3GrzR4Q

FLETC Informer Webinar Schedule

1. Strategies for Engaging in the Art of the Difficult Conversation (1-hour)

Presented by John Besselman, Senior Advisor for Training, Office of Chief Counsel, and Ken Anderson, Attorney-Advisor / Senior Instructor, Federal Law Enforcement Training Centers, Glynco, Georgia (John.Besselman@fletc.dhs.gov)

In this webinar, the presenters will reflect on their years of leading, managing and engaging in difficult conversations when necessary. The effective practice of law requires purposefully navigating communications in which the parties may disagree

on desired outcomes. Though this challenge is not exclusively a legal problem, members of the profession will be encouraged to identify the risks and adopt strategies to solve these issues. Everyone that faces the challenges presented by the "difficult conversation" is invited to attend. A training certificate will be available at the conclusion of this presentation.

Thursday September 6, 2018 – 10:30 am. Eastern / 9:30 a.m. Central /8:30 a.m. Mountain / 7:30 a.m. Pacific

To participate in this webinar: https://share.dhs.gov/difficult_conversations/

2. Use of Force in Medical Emergencies (1-hour)

Presented by Mary M. Mara, Attorney-Advisor / Senior Instructor, Federal Law Enforcement Training Centers, Artesia, New Mexico (mary.m.mara@fletc.dhs.gov)

This webinar presents legal aspects of use of force during medical emergencies following a recent decision by the Sixth Circuit Court of Appeals (Estate of Hill v. Miracle, 853 F.3d 306 (6th Cir. 2017)). Police officers frequently encounter medical conditions which cause otherwise law-abiding citizens subjects to act in an erratic, aggressive and sometimes combative manners: diabetes, epilepsy, mental illness and excited delirium. When confronted with such a scenario, an officer must quickly assess the situation and, when appropriate, employ force to protect themselves, the patient, and other emergency responders providing necessary medical care.

Wednesday September 12, 2018 – 3:00 p.m. Eastern / 2:00 p.m. Central / 1:00 p.m. Mountain / 12 p.m. Pacific

To participate in this webinar: https://share.dhs.gov/artesia

3. Carpenter v. United States: New Rules on Tracking Suspects (1-hour)

Presented by Patrick Walsh, Attorney-Advisor / Branch Chief, Federal Law Enforcement Training Centers, Glynco, Georgia (patrick.walsh@fletc.dhs.gov)

In Carpenter v. United States, decided on June 22, 2018, the Supreme Court explained how the Fourth Amendment applies when the government tracks a suspect's location when it obtains cell site location information (CSLI) from a suspect's cell phone service provider. This webinar will discuss the short-term and long-term implications of the Carpenter decision, including how applications under Section 2703(d) of the Stored Communications Act must be changed immediately and the impact Carpenter might have on other methods law enforcement officers use to track the location of suspects.

Thursday September 13, 2018 – 10:30 am. Eastern / 9:30 a.m. Central /8:30 a.m. Mountain / 7:30 a.m. Pacific

And

Wednesday September 19, 2018 – 3:00 p.m. Eastern / 2:00 p.m. Central / 1:00 p.m. Mountain / 12 p.m. Pacific

To participate in either webinar: https://share.dhs.gov/walsh/

4. Government Workplace Searches (1-hour)

Presented by John Besselman, Senior Advisor for Training, Office of Chief Counsel, Federal Law Enforcement Training Centers, Glynco, Georgia (John.Besselman@fletc.dhs.gov)

This webinar examines how public employees might create a Reasonable Expectation of Privacy in their workplaces (computers, cars, offices, etc.), and, if so, how the government can intrude on that REP. This course is recommended for government supervisors, the IG community, and those whose duties include internal investigations. A training certificate will be available at the conclusion of this presentation.

Tuesday September 18, 2018 – 10:30 am. Eastern / 9:30 a.m. Central /8:30 a.m. Mountain / 7:30 a.m. Pacific

To participate in this webinar: https://share.dhs.gov/govtworksearch/

5. Officer Liability in 2018 (1-hour)

Presented by Henry W. McGowen, Attorney-Advisor / Senior Instructor, Federal Law Enforcement Training Centers, Artesia, New Mexico (henry.mcgowen@fletc.dhs.gov)

A reality today for law enforcement officers everywhere is the fact that they may be sued for doing their jobs, whether from a disputed use of force, claimed false arrest or damage to personal property resulting from police action. The Supreme Court has very recently addressed issues of officer liability and law enforcement officers' defenses to being sued. This webinar presents cases that have recently addressed critical issues of officer liability and the legal defenses to such lawsuits.

Wednesday September 26, 2018 – 3:00 p.m. Eastern / 2:00 p.m. Central / 1:00 p.m. Mountain / 12 p.m. Pacific

To participate in this webinar: https://share.dhs.gov/artesia

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